IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.280 OF 2004

IN

SUIT NO.4261 OF 1998

Balkrishna Bapu Khadang. ... Plaintiff.

vs.

Ashabai Kashid ... Defendant.

Mr.S.S.Redekar, for Plaintiff.

Mr.V.Y.Sanglikar, for Defendant

CORAM: D.K.DESHMUKH,J.

DATED: 22nd September,2005

P.C.:-

1. By order dated 3.8.1999 the defendant was directed to be appointed as agent of the Receiver and the royalty was fixed at Rs.7000/- per month. The plaintiff has taken out this notice of motion for modification of that order and for appointing the plaintiff as agent of the receiver on the ground that the defendant has committed

default in payment of royalty and the amount of royalty is in arrears. The defendant has filed the affidavit dt.8.12.2004 wherein she has stated that she has not committed any default in payment of the royalty, though some time there was delay in payment of monthly royalty. A categorical statement has been made that full payment of royalty has been made. I have also been shown by the learned Counsel appearing for the defendant a payment receipt issued by the Receiver acknowledging the receipt of royalty of July,2005. As it is seen that the defendant has been paying royalty and the amount of royalty is not in arrears, there is no reason to modify the order by which the defendant was appointed as agent of the receiver. Hence, the notice of motion is disposed of.